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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,568	08/27/2003	Shane Michael Boden	16546-US	5946

7590 12/23/2004

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EXAMINER

CAMPBELL, KELLY E

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/649,568	Applicant(s) BODEN, SHANE MICHAEL	
	Examiner Kelly E Campbell	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/27/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Keen (US 6,487,754).

Keen teaches a support mechanism for supporting a hood with respect to a vehicle to which the hood is pivotally coupled including:

- a pair of laterally spaced first arms (18,20) each having a first end pivotally coupled to the vehicle at pivot pin (22);
- a pair of laterally spaced second arms (32,34) each having a first end pivotally coupled to the second end of one of the first arms at pivot pin (24), and having a second end for engaging and supporting the hood, see Figure 3;
- a resilient member (60) coupled between the first (18,20) and second arms (32,34) and biased to urge the second

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ends of the second arms upwardly and towards the hood
(10);

- a pivot pin (24) couples the second arm to the first arm, being non-rotatably attached to at least one of the second arms, see Column 2, lines 5-6, the resilient member (60) being coupled around the pivot pin (24), the resilient member (60) having an inner end anchored to the pivot pin (24), see Column 2, lines 25-27, and having outer end anchored to the second arm;
-

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Greig (US 2,322,630).

Greig teaches a support mechanism for supporting a hood with respect to a vehicle to which the hood is pivotally coupled including:

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- a pair of laterally spaced first arms (lower ends of arm (31)) each having a first end pivotally coupled to the vehicle at pivot pin, see Figure 3;
- a pair of laterally spaced second arms (upper ends of arm (31)) each having a first end pivotally coupled to the second end of one of the first arms at a pivot pin, and having a second end for engaging and supporting the hood, see Figure 3;
- a resilient member (31a) coupled between the first and second arms (31) and biased to urge the second ends of the second arms upwardly and towards the hood (17);
- a pivot pin (silent) couples the second arm to the first arm, non-rotatably attached to at least one of the second arms in order to raise the hood, the resilient member (31a) being coiled around the pivot pin, see Figure 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keen (US 6,487,754).

Keen teaches all aspects of the invention as discussed above for claim 1, except the resilient member having an inner end anchored to the pivot pin and an outer end anchored to the first arm.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the outer end of the resilient member anchored to the second arm to be disposed on the first arm, to alternatively provide elastic resistance when opening and closing the hood, and it would have been obvious to one having ordinary skill in the art at the time the invention was made to relocate the position of the outer end of the resilient member, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiskse*, 86 USPQ 70.

Allowable Subject Matter

Claims 5-7 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goto teaches a hinge mechanism for a hood. Porter teaches a hood mechanism. Little teaches a hood mechanism with a resilient for

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a hood. Bening teaches a hinge/hood latch for a vehicle. Esau et al teaches a vehicle hood hinge assembly. Gaffolio et al teaches a vehicle hood mounting arrangement. Miller teaches a hood mechanism. Knight teaches a tractor hood lift mechanism. Thompson et al pivotable hood structure. Elhardt et al teaches a hood lift mechanism with a resilient member. Kondo et al teaches a hood hinge apparatus.

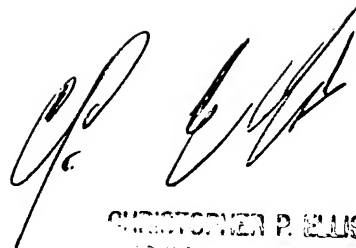
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E Campbell whose telephone number is (703) 605-4264. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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KEC


CHRISTOPHER P. ELLIS
REGISTERED PATENT EXAMINER
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